

Before the
Federal Communications Commission
Washington, D.C.

In the matter of)	
)	
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	CG Docket Number 02-278
)	
Yodel Technologies LLC's Petition for)	
Expedited Declaratory Ruling or)	
In the Alternative Retroactive Waiver)	

REPLY COMMENTS

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This comment is in response to the Petition for Expedited Declaratory Ruling filed by Yodel Technologies, LLC (Yodel)¹, which I oppose, and in reply to the comments submitted by Brent Tantillo of Tantillo Law PLLC². I filed comments on the Yodel petition on October 21, 2019.

At issue is whether the Telephone Consumer Protection Act of 1991 (“TCPA”)³ applies to “calls using recorded audio clips specifically selected and presented by a human operator in real-time, a tool generally referred to as ‘soundboard technology’.”

Mr. Tantillo commented that the U.S. Court of Appeals for the Ninth Circuit, in the *Moser v. F.C.C.* decision stated that the TCPA did not ban prerecorded messages introduced by a live operator. Yodel, in its petition, also referred to this decision. The court stated that “The restrictions in the Act leave open many alternative channels of communication, including the use of taped messages *introduced by live speakers . . .*.”⁴

However, there is nothing in Yodel’s description of soundboard technology that states that the messages would be introduced by a live operator.⁵

Soundboard technology uses prerecorded voices in direct violation of the clear and unambiguous text of the TCPA. Again, I urge the Commission to deny the declaratory ruling and the waiver requested by Yodel, and to rule that calls using recorded clips or soundboard technology are covered by the TCPA.

Respectfully submitted,

/s/John A. Shaw

¹ Petition for Expedited Declaratory Ruling filed by Yodel Technologies LLC filed Sept. 13, 2019, (“Petition”) (accessible at <https://ecfsapi.fcc.gov/file/1091320379447/Yodel%20Petition%20for%20Expedited%20Declaratory%20Ruling%20Or%20Waiver.PDF>).

² Tantillo Law PLLC comments

³ 47 U.S.C. § 227, P.L. 102-243, 105 STAT 2394.

⁴ *Moser v. F.C.C.*, 46 F.3d 970, 975 (9th Cir. 1995), (emphasis added).

⁵ See generally Petition at 2, 3 (defining soundboard technology).